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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/566,703

02/01/2006

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Q77395

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23373 7590 04/30/2008
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EXAMINER

LALLI, MELISSA LYNN

ART UNIT

PAPER NUMBER

3728

MAIL DATE

DELIVERY MODE

04/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/566,703	Applicant(s) SAKATA ET AL.	
	Examiner MELISSA L. LALLI	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/01/06, 5/12/06</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "opening 43" on page 24, line 16 and "partitioning member main body 52" on page 25, line 6. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities: grammatical/typographical error. On page 1, line 15, "unfailing separating" should be changed to "unfailingly separating." On page 20, line 11, "lib" should be changed to "rib."

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, 4, 7, 11, and 14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Regarding claims 1, 2, 4, 7, 11, and 14, the use of the terms "thin" and "thick" in reference to a connection means between the partition body and partitioning member main body is unclear. The relative terms "thin" and "thick" have no well-recognized meaning obtainable from the drawings or specification; hence, the meaning of these technical features is unclear. Applicant is require to further clarify the use of the terms "thin" and "thick", and amend the claims if appropriate.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by German Patent Document No. 19724591 to Fischer.

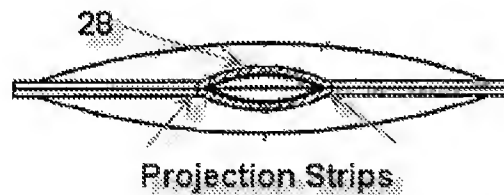
Regarding claim 1, Fischer discloses a partitioning member (16) for partitioning a plurality of adjacent housing parts comprising a partitioning member main body (28) having a hollow part (fig. 3) capable of communicating a plurality of adjacent housing parts (12, 14) and a partition body (30) for partitioning the hollow part. The partition body is provided in the middle which is not in the vicinity of the openings of the

partitioning member main body. The partition body and partitioning member main body are connected through a thin wall part (36).

Regarding claim 2, Fischer discloses a thin wall part (36) and a thick wall part (30) are formed in the connection part between the partition body (30) and the partitioning member main body (28).

Regarding claims 3 and 14, Fischer discloses the partition body (30) having a tabular shape and being inclined with respect to the plane formed by the opening of the partitioning member main body (fig. 7).

Regarding claim 4, Fischer discloses the partitioning member main body (28) being tubular and relatively flat (see below). A projection strip is provided on each side of the partitioning member main body to protrude to the outer side (see below).



Regarding claims 10 and 11, Fischer discloses the partitioning member main body having an elliptical shape (fig. 4). It is also disclosed that a force is applied to the partitioning member main body (28) in order to rupture the thin wall part (36) of the partition body (30) and allow mixing of the separated fluids (last paragraph of machine translation).

Regarding claims 12 and 13, Fischer discloses the partitioning member (16) being used in a container (10). The container (10) could be used as a medical container or a food container.

Claim Rejections - 35 USC § 103

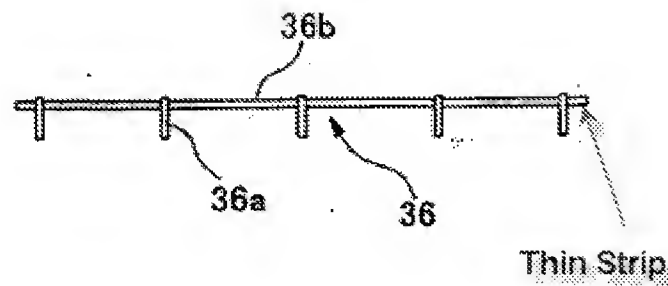
8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5, 6, 8, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fischer in view of European Patent Application No. 1,070,495 to Kageyama et al (Kageyama).

Regarding claim 5, Fischer discloses the claimed invention except for the partitioning member main body have at least one support member housed in its hollow part. Kageyama discloses a similar partitioning member (30) which separates a plurality of adjacent housing parts (10, 20) of a container. A support member (36) is housed in the hollow part (31) of the partitioning member main body (33) of the partitioning member. It would have been obvious to have included the support member (36) of Kageyama in the partitioning member of Fischer in order to maintain the shape of the hollow part of the partitioning member main body and prevent distortion as taught by Kageyama (col. 9, lines 39-51).

Regarding claim 6, according to the modification of Fischer by Kageyama as discussed in claim 5 above, Kageyama discloses a thin strip (see below) provided at both ends of the support member (36).



Regarding claims 8 and 9, according to the modification of Fischer by Kageyama as discussed in claim 5 above, Kageyama discloses the support member (36) comprising a plurality of ribs (36a) and a connection member (36b) which is divided into two or more parts and connects the ribs in a series (see above). Kageyama also discloses a support member (fig. 6, 36) where the plurality of ribs (36c) are connected to both ends of the support member at an incline. The support member extends in a triangular cross-sectional shape (fig. 6) which creates a spring-like structure.

Allowable Subject Matter

10. Claim 7 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The U.S. Patent No.'s 4465488, 5853388, 5871477, and 6846305 and the U.S. Patent Application Publication No. 2003/0078559 have been included because they are generally representative of prior art containers with partitioning members.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MELISSA L. LALLI whose telephone number is (571)270-5056. The examiner can normally be reached on Monday-Friday 7:30 AM-5:00 PM (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mickey Yu/
Supervisory Patent Examiner, Art
Unit 3728

/Melissa L Lalli/
Examiner, Art Unit 3728